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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,807	12/01/2003	Tim Schnell	5034-002	3683
24112 7590 12/16/2008 COATS & BENNETT, PLLC 1400 Crescent Green, Suite 300 Cary, NC 27518				
EXAMINER				
TORRES, ALICIA M				
ART UNIT		PAPER NUMBER		
3671				
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12/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: TIM SCHNELL

Appeal No. 2008-0336
Application 10/724,807
Technology Center 3600

Mailed: December 16, 2008

Before DALE SHAW, *Chief Appeals Administrator*
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING TO EXAMINER

APPEAL BRIEF, APPEALED CLAIMS

Appellant has not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that rejections are

outstanding for claims 18 and 19. On page 2 of the brief under the “Status of Claims” heading Appellant states “Claims 18 and 19, which stand rejected, are not appealed” and ultimately, the claims have not been argued in Appellant’s Grounds of Rejection to be Reviewed on Appeal” section.

DISCUSSION

The Board of Appeals and Interferences (Board), in *Ex parte Ghuman*, <http://www.uspto.gov/web/offices/dcom/bpai/prec/rm081175.pdf> (BPAI May 14, 2008) (precedential), held that in appeals where rejected claims are expressly withdrawn, or are implicitly withdrawn by not presenting arguments in support of patentability, the Board will remand (or return) the application to the Examiner with instructions to cancel the expressly or implicitly withdrawn claims. *See also Manual of Patent Examining Procedure* (MPEP) § 1215.03 (8th ed. Rev. 6, Sept 2007).

CONCLUSION

Accordingly, it is ORDERED that the application is remanded to the Examiner:

- 1) to enter a paper canceling claims 18 and 19; and
- 2) upon entry of the paper, to return the application to the Board for consideration of the appealed claims;

Appeal No. 2008-0336
Application No. 10/724,807

If there are any questions pertaining to this Order, please contact the
Board of Patent Appeals and Interferences at 571-272-9797.

vsh

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